

### REMARKS

In the December 2, 2004 Office Action, claims 1-3, 5, and 7, 9-24, and 26-32 stand rejected in view of prior art. The Office Action also indicates that claims 8 and 25 contain allowable subject matters. No other objections or rejections are made in the Office Action.

#### ***Status of Claims and Amendments***

No amendment of claims is being made in response to the December 2, 2004 Office Action. Thus, claims 1-3, 5 and 7-32 are pending, with claims 1, 20 and 31-32 being the only independent claims. Reexamination and reconsideration of the pending claims are respectfully requested in view of the following comments.

#### ***Interview Summary***

On February 23, 2005, the undersigned conducted a personal interview with Examiner Anthony Stashick, who is in charge of the above-identified patent application. Applicants wish to thank Examiner Stashick for his courteous interview and the opportunity to discuss the above-identified patent application. During the interview, the McKenna patent and claim 1 were discussed.

#### ***Rejections - 35 U.S.C. § 103***

In paragraph 2-4 of the December 2, 2004 Office Action, claims 1-3, 5, 7, 9-10, 12-24, and 26-32 stand rejected under 35 U.S.C. §103(b) as being unpatentable over U.S. Patent No. 5,893,260 to McKenna ("McKenna patent") in view of U.S. Patent No. 5,794,406 to Reichental et al. ("Reichental patent"). Claim 11 stands rejected as being unpatentable further in view of U.S. Patent No. 4,719,741 to Mabry ("Mabry patent"). In response, Applicants respectfully traverse the rejections of the office Action.

More specifically, Applicants believe that none of the prior art of record disclose or suggest the structures of claims 1, 20 and 31-32 in which manufactured bags are supplied to the first transfer unit such that the bags ***do not*** contact the first transfer unit ***until after*** the bags are separated. Clearly, this structure is ***not*** disclosed or suggested by the McKenna patent, the Reichental patent, the Mabry patent, or any other prior art of record.

The Office Action asserts that the McKenna patent in column 5, lines 63-65 discloses the structure of claims 1, 20 and 31-32 because the cited portion of the McKenna patent uses the word "drop." Applicants respectfully disagree with the interpretation of the word "drop" of the Office Action. More specifically, Applicants believe that, in view of the entire

disclosure of the McKenna patent, what is dropped onto the conveyor 73 when the jaws 60 and 64 open is *the severed end of the bag 62a, not the entire bag 62a*. In other words, Applicants believe that column 5, lines 63-65 of the McKenna patent should be interpreted to mean that “the jaws 60 and 64 open and release the top severed end of the bag 62 while the bottom end of the bag 62 is already resting on the conveyor 73, such that the entire bag 62 is on the conveyor 73 after the release by the jaws 60 and 64,” while the Office Action interprets the description to mean that “the jaws 60 and 64, which have been supporting the bag 62 in its entirety, release the entire bag 62, such that the entire bag 62 lands on the conveyor 73 after the release by the jaws 60 and 64.”

Applicants believe that the bottom end of the bag 62 does contact the conveyor 73 before the release by the jaws 60 and 64 because, first of all, drawings of the McKenna patent clearly show that the bag 62A is supported by the conveyor 73 *before* the top end of the bag 62A is sealed and severed. *See* Figures 3, 4, 13, 14. In the structure of the McKenna patent, sand is filled in the bag 62 while the jaws 60 clamp the bottom end of the tube 58 (column 5, lines 46). When the previous bag 62A is severed, the next bag 62 is let through between the jaws 60 by separating the jaws 60 apart to the fullest extent (column 7, lines 13-21). Thus, Figures 3, 4, 13, and 14 show the states where the sand is filled in the bag 62, before the top end of the bag 62 is closed. In other words, the bag 62 is *not* severed from the tube 58 in the states shown in Figures 3, 4, 13, and 14. Yet, as clearly seen in Figures 3, 4, 13, and 14, the bag 62 is already supported by the conveyor 73. This clearly supports the Applicants’ position regarding the interpretation of column 5, lines 63-65 of the McKenna patent.

Secondly, Applicants believe the Office Action’s rationale, that the figures of the McKenna patent do not include all possible embodiments, to be unfounded. In fact, the McKenna patent does *not* have *any* figures that support the Office Action’s interpretation of the word “drop.” More specifically, in both of the two embodiments that the McKenna patent discloses, the bag 62 is resting on the conveyor 73 before the top end of the bag 62 is closed and severed, as shown in Figures 3-5 (first embodiment) and Figures 13-14 (second embodiment). It would be unreasonable to interpret the word “drop” in the specification in one way (“releasing the entire bag”) when Figures that the word is supposed to be explaining support the interpretation only in the other way (“releasing the severed end of the bag”).

Furthermore, Applicants believe that any other possible embodiments of the conveyer 73 that are not disclosed in the McKenna patent should not be considered as part of disclosure of the McKenna patent. The claim language that corresponds to the conveyer 73 is "bag removal means," which is found in claims 2, 3, 15, and 16. Thus, per 35 U.S.C. 112, 6<sup>th</sup> paragraph, the structure of the bag removal means is limited to the conveyer 73 described in the specification and shown in Figures 3, 4, 13, and 14. No other embodiments of the removal means should be considered as part of disclosure of the McKenna patent.

Thirdly, it would be inconceivable for one of the ordinary skill in the art to construct the structure in which the bag 62 does not rest on the conveyer 73 and is supported in its entirety by the jaws 60 and 64. As the title of the invention indicates, the invention of the McKenna patent is solely directed to forming and filling of sandbags. Such sandbags are heavy. It is inconceivable to let such a heavy sandbag 62 hang from the jaws 60 and 64 and not allow the bottom portion of the sandbag 62A to rest on the conveyer 73 until the top end of the bag 62A is sealed and severed, since such construction would damage the conveyer 73 as well as the jaws 60 and 64 due to the weight of the sandbag 62A. (Although the unsealed bag 62 appears to be hanging from above in Figure 5, it is clear from the description in column 5, line 35-45 that the lines in Figure 5 indicating the tube 58 of the bag 62 should be extended up to the jaws 60, since the lowermost end of the tube 58 is supposed to be clamped between the jaws 60 while the bag 62 is at the position shown in Figure 5.)

In view of the above comments, Applicants believe that the bottom end of the bag 62A is already in contact with the conveyer 73 when the top end of the bag 62A is severed. Thus, Applicants believe that the McKenna does not disclose or suggest the arrangement of claims 1, 20 and 31-32 of the present invention.

Also regarding the Reichental patent, Applicants believe that the Reichental patent does not disclose or suggest the first transfer unit as required by claims 1, 20, and 31-32. The Reichental patent is cited in the Office Action to show the control means. Clearly, the Reichental patent *does not show a first transfer unit or a belt on which the bags are dropped such that the bags do not contact the first transfer unit or the belt until after the bags are separated*. As clearly seen in Figure 15 of the Reichental patent, bags are not supplied to the ladder conveyer 82 by being dropped thereto, as required by claims 1, 20, and 31-32 and shown in Figure 6 of the present application, because in the Reichental patent, the

ladder conveyer 82 receives the bags that are dropped to the unnumbered stationary chute, and then onto the ladder conveyer 82 after the unnumbered stationary chute changes the transferring direction of the bags. This is clearly contrary to the requirement of claims 1, 20, and 31-32, especially in view of the fact that the object of the present invention is to replace a conventional stationary chute with a transfer unit, thereby improving the bag-forming capacity. *See* page 5, lines 9-19 of the specification. Therefore, Applicants respectfully submit that claims 1, 20, and 31-32 are not anticipated or suggested by the Reichental patent, whether taken singularly or in combination with the McKenna patent.

Regarding the Mabry patent, it is cited in the Office Action to show the cooling unit. Clearly, the Mabry patent does not disclose or suggest a first transfer unit that changes the conveyance direction of the bags. Therefore, Applicants believe that the Mabry patent does not disclose or suggest the arrangement of claims 1, 20, and 31-32 either singularly or in any combination.

In view of the above comment, Applicants believe that claims 1, 20, and 31-32 are not disclosed or suggested by the prior art of record.

Regarding dependent claims 2-3, 5, 7, 9-19, 21-24, and 26-30, they depend from claims 1 and 20, and are therefore narrower. Since the McKenna patent, the Reichental patent, and the Mabry patent do not anticipate or render obvious the arrangements of claims 1 and 20, dependent claims 2-3, 5, 7, 9-19, 21-24, and 26-30 cannot be disclosed or suggested by the prior art of record.

Applicants respectfully request withdrawal of the rejections.

***Allowable Subject Matter***


On page 4 of the Office Action, claims 8 and 25 are indicated as containing allowable subject matter. Applicants wish to thank the Examiner for this indication of allowable subject matter and the thorough examination of this application. In this Amendment, claims 8 and 25 continue to depend from claims 1 and 20, respectively. Since claims 1 and 20 are believed to be allowable as discussed above, Applicants believe that claims 8 and 25 are in condition for allowance.

\* \* \*

Appl. No. 09/911,621  
Amendment dated March 1, 2005  
Reply to Office Action of December 2, 2004

In view of the foregoing amendment and comments, Applicants respectfully assert that claims 1-3, 5, 7-32 are now in condition for allowance. Reexamination and reconsideration of the pending claims are respectfully requested.

Respectfully submitted,

  
Kiyoe K. Kabashima  
Reg. No. 54,874

SHINJYU GLOBAL IP COUNSELORS, LLP  
1233 Twentieth Street, NW, Suite 700  
Washington, DC 20036  
(202)-293-0444  
Dated: Mar 1, 2005  
G:\02-FEB05-MT\IS-US000501 Amendment.doc